

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 6520**

**BILL NUMBER:** HB 1147

**DATE PREPARED:** Mar 26, 1999

**BILL AMENDED:** Mar 25, 1999

**SUBJECT:** Wrongful death.

**FISCAL ANALYST:** Susan Preble

**PHONE NUMBER:** 232-9867

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

(A) That if the death of an unmarried adult individual without dependents is caused by the wrongful act or omission of another person, only the personal representative of the adult individual may maintain an action against the person whose wrongful act or omission caused the death of the adult individual;

(B) That the damages that may be recovered in an action include: (1) reasonable medical, hospital, funeral, and burial expenses; and (2) loss of the adult individual's love and companionship, but specifies, however, that damages recovered in the action may not include: (1) damages awarded for a person's grief; or (2) punitive damages;

(C) Specifies that damages other than reasonable medical, hospital, funeral, and burial expenses inure to the exclusive benefit of a nondependent parent or nondependent child of the adult individual;

(D) Requires that before a parent or child may recover the above-described damages, the parent or child has the burden of proving that the parent or child had a genuine, substantial, and ongoing relationship with the adult person;

(E) Prohibits a court or jury from hearing evidence concerning the lost earnings of the adult person that occur as a result of the wrongful act or omission;

(F) Requires that whenever the court or jury awards damages to more than one person, the court or jury must specify the amount of damages that should be awarded to each person;

(G) Provides that in a wrongful death action involving an unmarried adult individual without dependents, and;

(1) the trier of fact must make a separate finding with respect to damages involving the loss of the adult individual's love and companionship; and (2) the aggregate amount of damages that may be recovered for the loss of the adult individual's love and companionship may not exceed \$300,000.

**Effective Date:** (Amended) January 1, 2000.

**Explanation of State Expenditures:** Passage of this bill potentially increases the number of lawsuits because it allows a personal representative of an unmarried adult person with no children to bring a wrongful death action when the person dies as a result of a wrongful act or omission of another person. This provision also expands the number of parties that may be included in lawsuits filed against the state.

Passage of this bill will allow additional parties to recover in a wrongful death action which could increase the damage awards that the State would have to pay. Damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any one occurrence and \$5 million for the injury to, or death of, all persons in that occurrence.

The Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State and by plaintiffs in tort and civil rights litigation between CY 1992 and CY 1997 as follows:

<u>CY</u>	<u>Damages Paid</u>
1997	\$3,438,230
1996	\$5,742,977
1995	\$6,362,071
1994	\$8,060,838
1993	\$4,048,126
1992	\$3,456,495

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and as a result of a court order. It also includes cases in both federal and state court.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** See State Expenditures.

**Explanation of Local Revenues:**

**State Agencies Affected:** Office of the Attorney General.

**Local Agencies Affected:** Counties, cities and towns.

**Information Sources:** Barbara Crawford (232-6217), Office of the Attorney General.